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November 21, 1997

William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street N.W. Room 222
Washington D.C. 20554

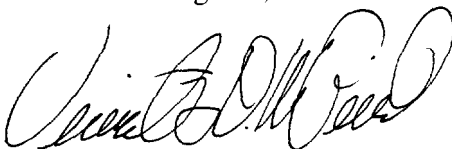
Dear Mr. Caton:

Re: WT Docket No. 97-82 / FCC Order 97-342

Pursuant to applicable procedures set fourth in Sections 1.415 and 1.419 of the Commission's Rules, please find an original, (attached to this letter) and ten copies of my petition regarding the above, to be formally filed by November 24, 1997 before 5 PM. with the Office of the Secretary, Federal Communication Commission. A courtesy copy was served on Mr. Mark Bollinger of the Wireless Telecommunications Bureau Via: *FIRST CLASS MAIL*.

If you have any questions, or need further information, you may reach me directly at:
310.452.4003

With kind regards,



VINCENT D. McBRIDE

VDM/kh

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**Before the
FEDERAL COMMUNICATION COMMISSION
Washington D.C.**

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In The Matter of

WT Docket No. 97-82

Second Report and Order FCC 97-342

Released: October 16, 1997

Amendment of Commissions

Rules Regarding Installment Payment

Financing For Personal Communications

Services (PCS) Licensees

To: William F. Caton
Acting Secretary

PETITION FOR RECONSIDERATION

Introduction

My name is Vincent D. McBride I am a Letter Carrier for the U.S. Postal Service, and also one of the 87 winning bidders in the FCC Entrepreneur's C block auction, winning a PCS License for the Williston North Dakota market, the smallest market of the 493 markets. To date I have made all of the required payments on time. After evaluating the menu of options presented by the Commission, I feel these options will create a financial obstacle, and are fundamentally wrong for the following reasons.

Argument

Option No.1 Existing Note Obligations.

Option No.1 contains no solutions for the financially troubled Entrepreneur's C block auction licensees in any way. This is the same option we had on March 31, 1997 but only now it's a year later. Since, the six months it took for the Commission to offer the options, the capital markets required to finance the build out have collapsed, and the value of our licenses has only deteriorated. This indecision has put everything on hold, cost us thousands of dollars, hurt business partners, and has increased the risk of bankruptcy. This option offers no incentives at all, and therefore is worthless.

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Option No.2 Disaggregation.

a) Since option No.2 is the only option that may offer a choice to small bidders with only one or two markets, the penalty on the down payment should be uniform with the penalty given to someone selecting option No.4. An additional 20 percent penalty for selecting option No.2 is not equitable. For option No.2 to be effective the penalty on the down payment should be eliminated.

b) The value of a 15MHz License is not the same as the value of a 30 MHz License. (*See Commission Rules WT Docket No. 96-59 "Adjusting for Lower Values of 10MHz Licenses."*) The point is: when we placed our bids in the C block auction we did so based on the value of a 30MHz license, not based on the value of a 15MHz license. We ask the commission to use the same rationale as Docket No. 96-59 and make an adjustment to the debt and the down payment based on the value of a 15MHz license.

c) In addition to trimming our spectrum holding, option No.2 will also introduce another competitor into the market place. At the start of the PCS auctions our business case was based on the fact that the number of potential competitors in each market would be no more than six PCS licenses in each market, one for each auction block A to F. But after the auctions have ended, the commission altered the rules by introducing disaggregation, and now the C block licenses will be cut in half, adding yet one more competitor to the market place. It looks like we could have as many as twelve PCS competitors in each market, plus two cellular companies, along with an onslaught of wireless spectrum SMR, WCS, LMDS, and GWS licenses. By changing the rules in the middle of the game the commission has inherently wrecked the business case and devalued all C block licenses by as much as 75 percent. This has severely weakened the business model which financial investors depend on. (*See Wireless Week October 6, 1997 "Wall Street Unaltered by C Block Plan."*)

Option No.3 Amnesty.

Option No.3 is asking us to forfeit 100 percent of our down payments posted to date. This is millions of dollars in forfeiture, not including other additional expenses, and three years of time. Option No.3 is punitive in nature and is not amnesty.

Option No.4 Prepayment.

a) Option No.4 is nothing more than a bailout for a few large bidders in the Entrepreneur's C block auction. With this option the commission is allowing them off the hook for over **\$7.4 Billion Dollars** with a small penalty of less than 3 percent of the total debt outstanding. These same bidders will enjoy the right to select a few choice markets from their holdings, and then enter the reauction. On the other hand, you have restricted the small bidder to accept option No.2 who will be forced to pay a 50 percent penalty on our down payment. This is not equitable.

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b) If the very small bidder could afford to pay all cash for the licenses, we would not have been in the Entrepreneur's C block auction in the first place, and would have been in the A & B block auctions. Option No.4 unfairly discriminates against the smaller bidder in the Entrepreneur's C Block Auction, and is inequitable. It exclusively represents the views of the larger players in the Entrepreneur's C block auction, and has no commercial value for the smaller bidder.

c) Only a few days prior to the start of the auction, the commission adopted the Adarand ruling, and did away with the designated entities bidding credits for very small businesses owned by minorities and women in the Entrepreneur's C Block Auction. By doing so, it eliminated any advantages that a small bidder may have had over larger bidders like U.S. Airwaves who posted up-front deposits of more than **\$81 Million Dollars**. Under the activity rules, the larger your up-front deposit is, the higher your activity level is, therefore giving the smaller bidders a disadvantage. For the commission to now ask the small businesses, minorities, and women to accept option No.4 and pay all cash for its licenses plus a penalty on its down payment would eliminate the only worthwhile benefit left in the Entrepreneur's C block auctions, the installment payment plan.

d) The Entrepreneur's C block auction total net bids in the amount of more than **\$10.2 Billion Dollars** was inflated by what now appears to be fraudulent bids of over **\$7.4 Billion Dollars** or 73 percent of the total net bids in the Entrepreneur's C Block Auction, placed by the top four bidders alone. The fact is, one of the **four - BDPCS** - never made it out of the starting gate, and never even had the first 5 percent down payment. (*See RCR cover story May 5, 1997 "Ex-PCS Player BDPCS Blames Loss On US West."*), and the other two bidders - **Pocket Communications** - and **-GWI-** are now in bankruptcy, and the top bidder of the four - **Next Wave** - could not even make the first interest payment on its **\$4.7 Billion Dollars** in bids forcing the FCC to suspend all interest payments. Additionally, the issue of NextWave's violation of the FCC foreign ownership rules is not being addressed. (*See RCR cover story February 24, 1997 "FCC Puts NextWave's Foreign Ownership Near 40%."*) This fraudulent bidding had a substantial effect on the prices and inflated the C block auction by as much as 400 percent. (*See RCR March 25, 1997 "Gaming Professor Says NextWave Bids Skewed C Block Auction."*) The fact of the matter is, for exactly the same amount of spectrum in the D, E & F block auction, licenses sold for 25 percent of comparable C block licenses. (*See Wireless Telecommunications Bureau Facts.*) The brain trust on Wall Street at the FCC Entrepreneur's C block hearings on June 30, 1997 said that a reauction would bring about twenty five cents on the dollar, or roughly the equivalent of a 75 percent discount to the C block bids.

e) The irony is that option No.4 works counterclockwise of the commission goal to promote competition and encourage Designated Entities to participate in the wireless telecommunications industry. Instead, it unfairly discriminates against the smaller players. Option No.4 is worthless to the smaller bidder and is a bold slap in the face by ignoring the mandate of congress under Section 309 (j) of the Telecommunications Act.

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Option No.4 will only place a commercial cloud over the Entrepreneur's C block licenses. If this is the only options the commission is willing to muster, then we would highly recommend to the commission not to change the rules one bit. After all, **"the rules are the rules."**

The problems of the Entrepreneur's C block auction should not come as a big surprise to the commission, because it was the commissions own decisions, that fertilized the C block pandemonium by:

- Defining a small business (General Rule: 24.709) as having total assets of \$500 million or less
- Adopting the Adarand decision three days before the start of the auction
- Giving NextWave the O.K. to violate the foreign ownership rules
- Giving the A& B Block a two year head start
- Allowing Pocket Communications to file for bankruptcy by subordinating the FCC first lean on it's licenses
- Changing the rules with the suspension of all installment payments
- Giving the comments of large telecommunications companies too much weight and input on the rule-making decisions of the Entrepreneur's C block auction
- Allowing PCS spectrum disaggregation after the fact.

For Reconsideration

If the commission is truly sincere about helping the small bidders in the Entrepreneurs C block auction, then I have some creative solutions for reconsideration:

- Give full amnesty, and return all of our down payments, all of our installment payments, and pay us interest on our money at the same rate of 7 percent to date with no penalty
- Equalize the result of fraudulent bidding with a 75 percent discount
- Set the interest rate on the outstanding debt uniformly at 5.75 percent based on the day the Entrepreneur's C block auction ended, so all Entrepreneur's C block bidders have the same interest rate. Why should NextWave have a lower interest rate then us?

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- Subordinate the first lean on all Entrepreneur's C block licenses to a secondary position The same as Pocket Communications!
- Eliminate all the restrictions of ownership on all the Entrepreneur's C block licenses
- Request a tax credit from congress for anyone who makes an investment in a Entrepreneur's C block licensee
- Immediately implement the Telecommunication Development Fund (TDF)
- Modify option No.2 to include a choice of giving back 5, 10, 15, 20, 25, or 30 MHz with out penalty
- Eliminate all payments for the first five years, with no interest
- Eliminate the build-out requirements for the first ten years To make up for the lost time.

Conclusion

The commission has an absolute responsibility to the Entrepreneur's C block winners. It is time for the commission to follow through on the rules established, the mandates of congress, and the fundamental principles of the Entrepreneur's C block auction, along with all its promises. It would be a crime for the commission to look the other way, now that we are looking to the commission for real help.

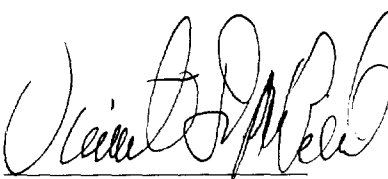
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Dated : November 21, 1997

Respectfully submitted,

VINCENT D. MCBRIDE

By: 
Vincent D. McBride